

## § 303.432

agreement that sets forth that resolution and that—

(i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

(ii) Is signed by both the parent and a representative of the lead agency who has the authority to bind such agency.

(6) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States.

(7) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.

(c) *Impartiality of mediator.* (1) An individual who serves as a mediator under this part—

(i) May not be an employee of the lead agency or an EIS provider that is involved in the provision of early intervention services or other services to the child; and

(ii) Must not have a personal or professional interest that conflicts with the person's objectivity.

(2) A person who otherwise qualifies as a mediator is not an employee of a lead agency or an early intervention provider solely because he or she is paid by the agency or provider to serve as a mediator.

(d) *Meeting to encourage mediation.* A lead agency may establish procedures to offer to parents and EIS providers that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party—

(1) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the Act; and

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(2) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(Approved by Office of Management and Budget under control number 1820–NEW)

(Authority: 20 U.S.C. 1415(e), 1439(a)(8))

### STATE COMPLAINT PROCEDURES

#### § 303.432 Adoption of State complaint procedures.

(a) *General.* Each lead agency must adopt written procedures for—

(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements in § 303.434 by providing for the filing of a complaint with the lead agency; and

(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, Protection and Advocacy (P&A) agencies, and other appropriate entities, the State procedures under §§ 303.432 through 303.434.

(b) *Remedies for denial of appropriate services.* In resolving a complaint in which the lead agency has found a failure to provide appropriate services, the lead agency, pursuant to its general supervisory authority under part C of the Act, must address—

(1) The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant's or toddler's family (such as compensatory services or monetary reimbursement); and

(2) Appropriate future provision of services for all infants and toddlers with disabilities and their families.

(Approved by Office of Management and Budget under control number 1820–NEW)

(Authority: 20 U.S.C. 1439(a)(1))

#### § 303.433 Minimum State complaint procedures.

(a) *Time limit; minimum procedures.* Each lead agency must include in its complaint procedures a time limit of 60 days after a complaint is filed under § 303.434 to—